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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARK DEWAYNE PORTER,) Civil No. 07-605-CL
)
Plaintiff,) ORDER
)
v.)
)
JEAN HILL, et al.,)
)
Defendants.)

PANNER, Judge.

Plaintiff Mark Porter, an inmate at Snake River Correctional Institution, brings this 42 U.S.C. § 1983 action against various prison officials. Porter complains that prison employees have improperly opened several letters to him marked "legal mail." Prison officials admit that happened on at least one occasion, but state it was inadvertent.

On March 3, 2009, Magistrate Judge Clarke filed his Report and Recommendation (R&R), which recommends granting Defendants' motion for summary judgment. Porter objected to the R&R. The matter is now before me for *de novo* review pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

An isolated instance in which a prison employee inadvertently opens an inmate's "legal mail," then realizes the error and takes appropriate measures to minimize any resulting

harm, is not actionable under 42 U.S.C. § 1983. State officials can be held accountable if they know of an ongoing problem with inmate legal mail improperly being opened, yet fail to take appropriate measures to correct that situation, or if state officials choose to remain ignorant of a problem.

The limited record submitted to this court by the pro se plaintiff is insufficient to demonstrate a pervasive problem that state prison officials have chosen to ignore. Accordingly, the Magistrate Judge correctly concluded that summary judgment should be granted for the defendants in this action.

Conclusion

Magistrate Judge Clarke's Findings and Recommendation (docket # 51) are adopted. Defendants' motion (# 38) for summary judgment is granted.

IT IS SO ORDERED.

DATED this 30 day of April, 2009.



Owen M. Panner
United States District Judge